

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL  
Special District Local  
Laws Code  
Chapter 8893  
6/13/18

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19	SUBCHAPTER A. GENERAL PROVISIONS	
20	<u>Revised Law</u>	
21	Sec. 8893.0001. DEFINITIONS. In this chapter:	
22	(1) "Board" means the district's board of directors.	
23	(2) "Director" means a board member.	
24	(3) "District" means the Live Oak Underground Water	
25	Conservation District. (Acts 71st Leg., R.S., Ch. 715, Sec. 2;	
26	New.)	

1                                    Source Law

2                    Sec. 2. In this Act, "district" means the Live  
3                    Oak Underground Water Conservation District.

4                                    Revisor's Note

5                    The definitions of "board" and "director" are  
6                    added to the revised law for drafting convenience and  
7                    to eliminate frequent, unnecessary repetition of the  
8                    substance of the definitions.

9                                    Revised Law

10                  Sec. 8893.0002. NATURE OF DISTRICT. The district is  
11                  created to provide for the conservation, preservation, protection,  
12                  recharge, and prevention of waste of the groundwater reservoirs  
13                  located under district land, consistent with the objectives of  
14                  Section 59, Article XVI, Texas Constitution, and Chapter 36, Water  
15                  Code. (Acts 71st Leg., R.S., Ch. 715, Sec. 4.)

16                                   Source Law

17                  Sec. 4. The district is created to provide for  
18                  the conservation, preservation, protection, recharge,  
19                  and prevention of waste of the underground water  
20                  reservoirs located under district land consistent with  
21                  the objectives of Article XVI, Section 59, of the Texas  
22                  Constitution and Chapter 36, Water Code.

23                                   Revisor's Note

24                  Section 4, Chapter 715, Acts of the 71st  
25                  Legislature, Regular Session, 1989, refers to  
26                  "underground water." Throughout this chapter, the  
27                  revised law substitutes "groundwater" for the quoted  
28                  language to conform to the term used in Chapter 36,  
29                  Water Code.

30                                   Revised Law

31                  Sec. 8893.0003. DISTRICT TERRITORY. The district includes  
32                  the territory in Live Oak County unless the district's territory  
33                  has been modified under:

- 34                    (1) Subchapter J or K, Chapter 36, Water Code; or  
35                    (2) other law. (Acts 71st Leg., R.S., Ch. 715, Sec. 3;  
36                  New.)

1                                    Source Law

2                Sec. 3. The district includes all of the  
3                territory located in Live Oak County.

4                                    Revisor's Note

5                Section 3, Chapter 715, Acts of the 71st  
6                Legislature, Regular Session, 1989, contains a  
7                description of the territory of the district. That  
8                description may not be accurate on the effective date  
9                of the revised law or at the time of a later reading  
10              because the district's boundaries are subject to  
11              change. For the reader's convenience, the revised law  
12              adds references to the authority to change the  
13              district's territory under Subchapter J or K, Chapter  
14              36, Water Code, applicable to groundwater conservation  
15              districts, and to the general authority of the  
16              legislature to enact other laws under which the  
17              district's territory may change.

18                                  Revised Law

19              Sec. 8893.0004. CONFLICTS OF LAW. (a) This section applies  
20              only to a provision of Chapter 36, Water Code, enacted on or before  
21              June 12, 2017.

22              (b) If there is a conflict between this chapter and Chapter  
23              36, Water Code, this chapter controls. (Acts 71st Leg., R.S., Ch.  
24              715, Sec. 13; New.)

25                                  Source Law

26              Sec. 13. If there is a conflict between this Act  
27              and Chapter 36, Water Code, this Act controls.

28                                  Revisor's Note

29              Section 13, Chapter 715, Acts of the 71st  
30              Legislature, Regular Session, 1989, provides that, in  
31              case of a conflict between that Act and Chapter 36,  
32              Water Code, the Act prevails. The revised law limits  
33              the application of Section 13 to provisions of Chapter  
34              36 enacted on or before the date the last amendment of  
35              Section 13 took effect (June 12, 2017) to avoid making

1 a substantive change in the interpretation of  
2 conflicts between Chapter 36, Water Code, and Chapter  
3 715.

4 Three different laws potentially govern the  
5 relationship between Chapter 715 and the general laws  
6 in Chapter 36, Water Code: Section 13, Chapter 715;  
7 Section 311.026, Government Code (Code Construction  
8 Act); and Section 36.052, Water Code. Section 311.026,  
9 Government Code (enacted in 1985), provides that if  
10 there is a conflict between a general provision of law  
11 and a special provision, the special provision  
12 prevails unless the general provision is the later  
13 enactment and the manifest intent is that the general  
14 provision prevail. Section 36.052, Water Code (enacted  
15 in 1997), provides that certain provisions of Chapter  
16 36 prevail over a conflicting or inconsistent  
17 provision of a special law.

18 Under Section 312.014, Government Code, if  
19 statutes are irreconcilable, the statute latest in  
20 date of enactment prevails. Therefore, to preserve  
21 the date of enactment of Section 13, Chapter 715, for  
22 the purposes of interpreting the interaction of  
23 Section 13, Chapter 715, Section 311.026, Government  
24 Code, and Section 36.052, Water Code, the revised law  
25 adds a reference to the effective date of Section 13,  
26 Chapter 715 (June 12, 2017).

#### 27 SUBCHAPTER B. BOARD OF DIRECTORS

##### 28 Revised Law

29 Sec. 8893.0051. COMPOSITION OF BOARD; TERMS. (a) The  
30 district is governed by a board of five directors.

31 (b) Directors serve staggered four-year terms. (Acts 71st  
32 Leg., R.S., Ch. 715, Secs. 12(a), (d).)

##### 33 Source Law

34 Sec. 12. (a) The district shall be governed by

1 a board of directors that consists of five directors.

2 (d) Directors serve staggered four-year terms.

3 Revised Law

4 Sec. 8893.0052. ELECTION OF DIRECTORS. One director is  
5 elected from each county commissioners precinct in Live Oak County.  
6 One director is elected from the district at large. (Acts 71st Leg.,  
7 R.S., Ch. 715, Sec. 12(c) (part).)

8 Source Law

9 (c) One director shall be elected from each  
10 county commissioner precinct in Live Oak County, and  
11 one director shall be elected from the district at  
12 large. . . .

13 Revised Law

14 Sec. 8893.0053. ELECTION OF DIRECTORS AFTER ANNEXATION.  
15 The board shall determine to which precinct annexed land will be  
16 added for purposes of election of directors. (Acts 71st Leg., R.S.,  
17 Ch. 715, Sec. 11.)

18 Source Law

19 Sec. 11. The board of directors shall determine  
20 to which precinct annexed land will be added for  
21 purposes of election of directors.

22 Revised Law

23 Sec. 8893.0054. ELECTION DATE. The district shall hold an  
24 election to elect the appropriate number of directors in each  
25 even-numbered year. (Acts 71st Leg., R.S., Ch. 715, Sec. 12(e).)

26 Source Law

27 (e) The district shall hold an election in each  
28 even-numbered year to elect the appropriate number of  
29 directors.

30 Revised Law

31 Sec. 8893.0055. QUALIFICATIONS FOR OFFICE. (a) To be  
32 qualified for election as a director, a person must be:

33 (1) a resident of the district; and

34 (2) at least 18 years of age.

35 (b) To represent a commissioner precinct, a person must be a  
36 resident of the precinct. (Acts 71st Leg., R.S., Ch. 715, Secs.  
37 12(b), (c) (part).)



1 Subchapters F and G, Chapter 36, Water Code, apply to the district.

2 (b) Notwithstanding Section 36.201(b), Water Code, the  
3 district may annually levy taxes to pay the maintenance and  
4 operating expenses of the district at a rate not to exceed five  
5 cents on each \$100 of assessed valuation. (Acts 71st Leg., R.S., Ch.  
6 715, Sec. 9.)

7 Source Law

8 Sec. 9. (a) Except as provided by Subsection  
9 (b) of this section, the tax and bond provisions of  
10 Subchapters F and G, Chapter 36, Water Code, apply to  
11 the district.

12 (b) Notwithstanding Section 36.201(b), Water  
13 Code, the district annually may levy taxes to pay the  
14 maintenance and operating expenses of the district at  
15 a rate not to exceed five cents on each \$100 of  
16 assessed valuation.

17 Revisor's Note  
18 (End of Chapter)

19 (1) Section 10, Chapter 715, Acts of the 71st  
20 Legislature, Regular Session, 1989, provides that  
21 Subchapter I, Chapter 36, Water Code, applies to the  
22 district. The revised law omits that provision as  
23 unnecessary because Chapter 36, Water Code, applies to  
24 the district under Section 8893.0101 of this chapter  
25 and Section 36.001(1), Water Code. The omitted law  
26 reads:

27 Sec. 10. Subchapter I, Chapter 36,  
28 Water Code, applies to dissolution of the  
29 district.

30 (2) Section 1, Chapter 305, Acts of the 73rd  
31 Legislature, Regular Session, 1993, defines  
32 "district" as the Brush Country Underground Water  
33 Conservation District for the purposes of Chapter 305.  
34 The sections of Chapter 305 in which the definition of  
35 "district" is used (Sections 2, 4, and 5) are omitted  
36 from the revised law, as explained in Revisor's Notes  
37 (3), (4), and (5). Therefore, the revised law omits  
38 that definition as unnecessary. The omitted law  
39 reads:

1                   Sec. 1. In this Act, "district" means  
2                   the Brush Country Underground Water  
3                   Conservation District.

4                   (3) Section 2, Chapter 305, Acts of the 73rd  
5                   Legislature, Regular Session, 1993, validates certain  
6                   actions by the district. The revised law omits the  
7                   validation because it served its purpose on the date it  
8                   took effect and is executed law. Section  
9                   311.031(a)(2), Government Code, (Code Construction  
10                  Act), provides that the repeal of a statute does not  
11                  affect any validation previously made under the  
12                  statute. Therefore, the omission of the executed  
13                  validation provision does not affect the validation.  
14                  The omitted law reads:

15                   Sec. 2. All resolutions, orders, and  
16                   other acts or attempted acts of the board of  
17                   directors of the district, including the  
18                   calling and holding of the confirmation and  
19                   directors election and of the directors  
20                   election held on May 1, 1993, the canvassing  
21                   of the returns, declaring the results of the  
22                   elections, and the organization of the  
23                   board, are validated in all respects. All  
24                   resolutions, orders, acts or attempted acts  
25                   of the board of directors of the district,  
26                   including the calling and holding of the  
27                   confirmation and directors election and of  
28                   the directors election held on May 1, 1993,  
29                   the canvassing of the returns, declaring  
30                   the results of the elections, and the  
31                   organization of the board, are valid as  
32                   though they were originally legally  
33                   authorized or accomplished.

34                   (4) Section 4, Chapter 305, Acts of the 73rd  
35                   Legislature, Regular Session, 1993, provides that  
36                   Chapter 305 does not apply to certain matters being  
37                   litigated on the effective date of Chapter 305. The  
38                   revised law omits the provision as executed and  
39                   because Sections 311.031(a)(1) and (2), Government  
40                   Code (Code Construction Act), provide that the repeal  
41                   of a statute does not affect the prior operation of a  
42                   statute or any validation, cure, right, privilege,  
43                   obligation, or liability acquired, accrued, accorded,  
44                   or incurred under the statute. The omitted law reads:



1           Sec. 4. This Act does not apply to or  
2           affect litigation now pending in any court  
3           of competent jurisdiction in this state to  
4           which the district is a party.

5           (5) Section 5(a), Chapter 305, Acts of the 73rd  
6           Legislature, Regular Session, 1993, provides that a  
7           "power, duty, right, or obligation" of the district is  
8           not affected by the district's name change. The  
9           revised law omits that subsection for the reason  
10          stated in Revisor's Note (4). The omitted law reads:

11           Sec. 5. (a) The change in name of the  
12          Brush Country Underground Water  
13          Conservation District made by this Act does  
14          not affect a power, duty, right, or  
15          obligation of the Brush Country Underground  
16          Water Conservation District. A power, duty,  
17          right, or obligation of the district under  
18          that name is a power, duty, right, or  
19          obligation of the Live Oak Underground  
20          Water Conservation District on the  
21          effective date of this Act.

22          (6) Sections 5(b) and (c), Chapter 305, Acts of  
23          the 73rd Legislature, Regular Session, 1993, describe  
24          transition procedures for directors' elections for  
25          directors elected in 1993. The revised law omits those  
26          provisions as executed. The omitted law reads:

27           (b) Directors elected from precincts  
28          2 and 4 in the May 1, 1993, election serve  
29          until their successors qualify and take  
30          office after the regularly scheduled  
31          election in 1994, as provided by Section  
32          12(e), Chapter 715, Acts of the 71st  
33          Legislature, Regular Session, 1989.

34           (c) Directors elected from precincts  
35          1 and 3 and the director elected at large in  
36          the May 1, 1993, election serve until their  
37          successors qualify and take office after  
38          the regularly scheduled election in 1996,  
39          as provided by Section 12(e), Chapter 715,  
40          Acts of the 71st Legislature, Regular  
41          Session, 1989.

42          (7) Section 5, Chapter 653, Acts of the 85th  
43          Legislature, Regular Session, 2017, recites  
44          legislative findings regarding procedural  
45          requirements for legislation affecting the district  
46          under the constitution and other laws and rules,  
47          including proper legal notice and the filing of  
48          recommendations. The revised law omits those

1 provisions as executed. The omitted law reads:

2           Sec. 5. (a) The legal notice of the  
3 intention to introduce this Act, setting  
4 forth the general substance of this Act, has  
5 been published as provided by law, and the  
6 notice and a copy of this Act have been  
7 furnished to all persons, agencies,  
8 officials, or entities to which they are  
9 required to be furnished under Section 59,  
10 Article XVI, Texas Constitution, and  
11 Chapter 313, Government Code.

12           (b) The governor, one of the required  
13 recipients, has submitted the notice and  
14 Act to the Texas Commission on  
15 Environmental Quality.

16           (c) The Texas Commission on  
17 Environmental Quality has filed its  
18 recommendations relating to this Act with  
19 the governor, the lieutenant governor, and  
20 the speaker of the house of representatives  
21 within the required time.

22           (d) All requirements of the  
23 constitution and laws of this state and the  
24 rules and procedures of the legislature  
25 with respect to the notice, introduction,  
26 and passage of this Act are fulfilled and  
27 accomplished.